

REMARKS-General

1. The amended independent claim 25 incorporates all structural limitations of the original claim 1 and includes further limitations previously brought forth in the disclosure. No new matter has been included. All amended claims 25-27 and 31-33 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

2. Examiner alleges that applicant of the instant invention has not disclosed structure to prevent the continuous sidewall of the pusher button from engaging the outer switch member. Accordingly, the pusher button 35 has a slot or a cut-out on a sidewall of the pusher button 35 such that the stopper 433 is allowed to extend from the switch member 431 into the lighter housing 21 through the slot or the cut-out, which is suggested in previous Office Action. Furthermore, the stop post 41 and the guider latch 42 are formed on a sidewall of the pusher button 35 such that the stopper 433 is slid on the sidewall of pusher button 35 to move between the locked position and the unlocked position. In other words, a person of average skill in the art is able to understand the structure of the pusher button 35 in order to incorporate with the safety arrangement 40.

3. In addition, as shown in Figs. 10 and 11, a retaining groove 441B is formed on a left sidewall of the stopper 433B to hold the respective end of the resilient element 60B wherein the stopper 433B is moved to the left side (unlocked position) such that the pusher button 35B is allowed to be pressed downwardly at a position that the stop post is adjacent to the right sidewall of the stopper 433B. Furthermore, Figs. 10 and 11 show the gas lever 71B and the gas actuating arm 72B are positioned behind the stopper 433B (as shown with dotted lines) and illustrate how the driving shoulder 721B of the gas actuating arm 72B engaging the actuating end 712B of the gas lever 71B to depress the actuating end 712B of the gas lever 71B so as to pivotally lift up the pivot end 711B thereof. Therefore, a person of average skill in the art is able to understand the structures of the pusher button 35B, the stopper 433B and the gas releasing unit 70B as shown in Figs. 10 and 11.

Response to Rejection of Claims 25-33 under 35USC112

4. The applicant submits that the amended claims 25-27 and 31-33 particularly point out and distinctly claim the subject matter of the instant invention, as pursuant to 35USC112.

Response to Rejection of Claims 25-33 under 35USC103

5. The Examiner rejected claims 25-33 over Jon (US 6,468,070) (Figures 6 and 7) in view of Jon (Figures 5 and 6), Nobuo (US 5,409,372) or Saito (6,093,017). Pursuant to 35 U.S.C. 103:

“(a) A patent may not be obtained though the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.”

6. In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)~(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

7. In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and Jon which is qualified as prior art of the instant invention under 35USC102(b) are obvious in view of Nobuo or Saito at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

8. However, these patents fail to suggest the instant invention including the following substantial features.

(i) the gas actuating arm having a driving shoulder provided between a bottom end of the gas actuating arm and a bottom side of the pusher button, wherein

when the pusher button is depressed, the gas actuating arm slides at the actuating end of the gas lever until the driving shoulder of the gas actuating arm substantially biases against the actuating end of the gas lever to depress the actuating end of the gas lever so as to pivotally lift up the pivot end thereof for releasing the liquefied fuel so as to ignite the liquefied fuel at the ignition tip (as claimed in claim 25);

(ii) wherein at the locked position, the stop post is positioned right above the stopper such that the pusher button is blocked to depress the piezoelectric unit for ignition (as claimed in claim 25);

(iii) wherein at the unlocked position, the switch member is slid on the sidewall of the light housing along the safety slot to drive the stopper to move aside from the stop post that allows the pusher button to be depressed to depress the movable part of the piezoelectric unit and to depress the actuating end of the gas lever simultaneously for igniting the utility lighter (as claimed in claim 25);

(iv) wherein the resilient element comprises a **coil spring** which is disposed in the internal cavity and is provided between the locking member and an inner wall of the internal cavity, wherein the resilient element has two end portions biasing against the stopper of the locking member and the inner wall of the internal cavity to urge and retain the stopper to align with the stop post to block up the pusher button from being slid towards the piezoelectric unit (as claimed in claim 26);

(v) a holding unit which has a retaining groove formed on the stopper and comprises a coil holder integrally extended from the sidewall of the internal cavity, wherein the respective end portion of the resilient element is fittingly engaged with the retaining groove to lock up the locking member on the sidewall of the casing while a coil body of the resilient element is securely mounted to the coil holder to secure the two end portion of the resilient element to bias against the locking member and the inner wall of the internal cavity respectively (as claimed in claim 27); and

(vi) wherein the gas lever has a slanted engaging surface formed on the actuating end and the gas actuating arm has a corresponding slanted driving surface formed at the bottom end to slidably engage with the slanted engaging surface of the gas lever so as to substantially guide the gas actuating arm to slide along the slanted

engaging surface of the gas lever until the driving shoulder of the gas actuating arm is engaged with the actuating end of the gas lever (as claimed in claims 31-33).

9. Jon merely discloses (in column 1, lines 36-40) the actuating trigger (33) (FIGS. 6 and 7) is blocked from moving the required distance for a spark to be generated... the locking mechanism is normally deactivated by sliding an "on/off" (32) switch to the "on" position... without any further disclosure in the specification and the drawings. In other words, Jon does not disclose how the switch (32) blocks the actuating trigger (33) to prevent the ignition of the lighter such that Jon fails to suggest that the stop post is positioned right above the stopper to block the downward movement of the pusher button while the stopper is moved aside from the stop post that allows the pusher button to be downwardly depressed.

10. In addition, Jon discloses (Figures 5) the safety button (120) depresses the cam lever (80) without any mention of any driving shoulder provided between a bottom end of the gas actuating arm and a bottom side of the pusher button to engage with the actuating end of the gas lever so as to pivotally lift up the pivot end thereof for releasing the liquefied fuel.

11. Nobuo discloses a gas lighter comprising a leaf spring 41 having two ends biasing against the depressed portion 21 of the actuating lever 2 and a finger board portion 42 of the lock member 4. On the other hand, Saito discloses a lighting rod comprising an urging means 631 in the form of a torsion spring which urges the locking member 627 rotatably supported on the main body, wherein the coiled portion of the torsion spring 631 is fitted on the shaft portion 630d of the side plate 630a. One end portion of the torsion spring 631 is inserted between the spring retainer projections 630e and the other end portion of the torsion spring 631 is in engagement with a projection 602c on the main body 602, whereby the locking member 630 is urged toward the locking position. Both Nobuo and Saito fails to teach the resilient element 60B of the instant invention having two end portions biasing against the stopper 433B and the inner wall of the internal cavity 211 for urging a pushing force to the locking member 43B along the safety slot 37B to normally retain the locking member 43B at the locked position.

12. The Examiner appears to reason that since Jon teaches that the actuating trigger is blocked by a switch, it would have been obvious to one skilled in the art to modify the switch urged by a coil spring suggested by Nobuo and Saito. But this is clearly **not** a proper basis for combining references in making out an obviousness rejection of the present claims. Rather, the invention must be considered as a whole and there must be something in the reference that suggests the combination or the modification. See *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984) ("The claimed invention must be considered as a whole, and the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination"), *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984), ("The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.") *In re Laskowski*, 10 U.S.P.Q.2d 1397, 1398 (Fed. Cir. 1989), ("Although the Commissioner suggests that [the structure in the primary prior art reference] could readily be modified to form the [claimed] structure, "[t]he mere fact that the prior art could be modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.")

13. In the present case, there is no such suggestion. Jon, Nobuo and Saito perform very different types of lighter. In any case, even combining Jon, Nobuo and Saito would not provide the invention as claimed -- a clear indicia of nonobviousness. *Ex parte Schwartz*, slip op. p.5 (BPA&I Appeal No. 92-2629 October 28, 1992), ("Even if we were to agree with the examiner that it would have been obvious to combine the reference teachings in the manner proposed, the resulting package still would not comprise zipper closure material that terminates short of the end of the one edge of the product containing area, as now claimed."). That is, modifying Jon with Nobuo and Saito, as proposed by the Examiner, would not provide the utility lighter having a stop post downwardly extended from the pusher button to block the downward movement of the pusher button by the stopper and a gas actuating arm having a driving shoulder to slidably engage with the actuating end of the gas lever so as to pivotally lift up the pivot end thereof for releasing the liquefied fuel.

14. Applicant believes that neither Jon, Nobuo nor Saito, separately or in combination, suggest or make any mention whatsoever of the utility lighter having the above substantial features (i) to (vi).

15. Applicant believes that for all of the foregoing reasons, all of the claims are in condition for allowance and such action is respectfully requested.

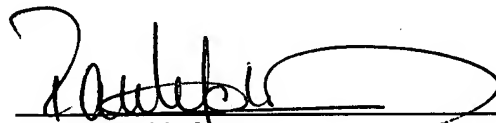
The Cited but Non-Applied References

16. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

17. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the objection are requested. Allowance of claims 25-27 and 31-33 at an early date is solicited.

18. Should the Examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this corresponding is being deposited with the United States Postal Service by First Class Mail, with sufficient postage, in an envelope addressed to "Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: December 22, 2004

Signature: 
Person Signing: Raymond Y. Chan